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AUG 16 1964  
HON. LISA MARGARET SMITH  
S.M.D.

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I respectfully submit that my \$2255 motion, memorandum of law in support thereof, this Court's prior Rule 33 decision of June 2008, and recent events in the community present a substantial question which if resolved my way, would result in a new trial or me spending as much time in prison as the length of the \$2255 process. Charle's "Flip" Melvin's credibility, perjurious testimony at my trial and the governments actions in this matter were the linchpin in this jury finding me guilty of the one-count indictment. Even Judge Robinson held in his Rule 33 decision that Flip "undeniably provided facts that could have persuaded the jury of their guilt.... cooberating audio recordings and phone records...and perhaps strengthened--the case established by other witesses." Orange County Senior Assistant District Attorney David Byrne, who testified at my trial, is now, amazingly, trying to use Flip's testimony in this matter against him in an ongoing State of New York murder trial in Orange County, New York stating that "There's a clear pattern and clear intent by the defendant to tamper with witnesses," and intending to use some of Flip's testimony in this case against him in the murder trial. (See Annexed Orange County Times Herald Record article dated July 8, 2010). I addressed the safety and flight prongs of 18 U.S.C. §3143 in my prior letters, submissions and other filings with this Court. I believe that a short-briefing schedule which permits holding a hearing by videoconference (AEDPA provisions) by or before September 10, 2010 is justified based on the foregoing.

I respectfully submit to the Court that forcing me to file for a writ of mandamus, pursuant to 28 U.S.C. §1651 and FrAP 21 because I now have nowhere else to turn to for relief and will be damaged in such in a way not correctable on appeal, should an adverse--decison be rendered, is both contrary to law in this Circuit and the facts of this case. Furthermore, I am left with no district judge to object to under 28 U.S.C. 636(a) should I disagree with any of Your Honor's rulings.

Please memo-endorse this letter with the Court's ruling and mail me a copy (I never received copies of the Court's July 28, 2010 memo-endorsed ruling).

Thank you for your consideration.

Respectfully,

By:   
 FCI Sandstone  
 Donald Roth, 83933-054 K1  
 POB 1000  
 Sandstone, MN 55072

encl.

cc. Benjamin Allee  
 Assistant United States Attorney